

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK  
ROCHESTER DIVISION

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In re:

Susan D. Rice,

Debtor.

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**NOTICE OF MOTION**

Case No.: 17-20337-PRW

Chapter 13

PLEASE TAKE NOTICE that a hearing will be held before the Honorable Paul R. Warren, Bankruptcy Judge, on **March 3, 2022** at 10:00 a.m. at the United States Bankruptcy Court, 100 State Street, Rochester, NY 14614, to consider the motion filed by the Chapter 13 Trustee, George M. Reiber, seeking (1) the dismissal of the above titled case and (2) such further relief as the Court deems proper.

Dated this 28th day of January, 2022  
Rochester, New York

/s/

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George M. Reiber  
Chapter 13 Trustee  
3136 S. Winton Road  
Rochester, NY 14623  
(585) 427-7225

To: Susan D. Rice  
John D. Wieser, Esq.  
United States Trustee

**NOTICE REGARDING ADJOURNMENT POLICY:**

**Please be advised the Trustee will NOT consent to adjourn this motion unless 1) opposition is timely filed; or 2) an agreement to adjourn between parties is reached not less than 72 hours prior to the scheduled date and time of the hearing on the motion and filed with the Court. Ultimately, all adjournments are granted at the discretion of the Court.**

UNITED STATES BANKRUPTCY COURT  
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**MOTION TO DISMISS**

Case No.: 17-20337-PRW

Chapter 13

George M. Reiber, Chapter 13 Trustee, respectfully moves this Court for the dismissal of the above titled case pursuant to 11 U.S.C. § 1307(c)(1) and Fed. R Bankr. P. 1017 for unreasonable delay and § 1307(c)(6) for material default by the debtor with respect to a term of the confirmed plan. The Debtor has failed to maintain plan payments.

In support of this motion, the Trustee alleges as follows:

1. On April 4, 2017 the Debtor filed a voluntary petition commencing a case under Chapter 13 of the Bankruptcy Code (ECF No. 1).
2. On November 20, 2017 an amended Chapter 13 repayment plan was filed. The repayment plan stated that voluntary plan payments would be \$640 monthly for a 60 month term (ECF No. 27).
3. On February 26, 2018 the Confirmation Hearing was held, and the plan was confirmed. An Order Confirming the plan was signed February 27, 2018 (ECF Nos. 34 and 35).
4. On June 9, 2020 the Trustee sent a plan payment default letter to the Debtor (ECF No. 39).
5. On July 14, 2020 the Trustee filed a Motion to Dismiss for Failure to Make Plan Payments. The hearing was scheduled for August 27, 2020. (ECF Nos. 40 and 41). A Stipulation Resolving Motion to Dismiss was signed on August 25, 2020 to settle the motion to dismiss (ECF No. 44). The stipulation required the Debtor to make monthly plan payments of \$840 beginning in August of 2020 by TFS deduction.
6. The Debtor has made sporadic plan payments to the Trustee since the stipulation agreement with the last two payments being partial payments of \$400 in October and December of 2021. In addition, only one of the payments has been made by TFS deduction with the remainder of the payments being made by money order in violation of the stipulation. If no other payments are received as of the return date of this motion, plan payments will be in default \$3,020.

WHEREFORE, the Trustee respectfully requests that the Court:

- A. dismiss the above titled case for the reasons set forth above; and
- B. grant any other relief as the Court deems proper.

Dated this 28th day of January, 2022  
Rochester, New York

/s/ \_\_\_\_\_  
George M. Reiber  
Chapter 13 Trustee  
3136 S. Winton Road  
Rochester, NY 14623  
(585) 427-7225

UNITED STATES BANKRUPTCY COURT  
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**CERTIFICATE OF SERVICE**

Case No.: 17-20337-PRW

Chapter 13

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I certify that on January 28, 2022, I served a copy of the Motion to Dismiss pursuant to 11 U.S.C. Section 1307, the Notice, Exhibit A, along with Proposed Order, by First Class United States Mail, with adequate postage to ensure delivery to the following:

Susan D. Rice  
656 Emerson Street  
Rochester, NY 14613

United States Trustee  
100 State Street, Room 4230  
Rochester, NY 14614

John D. Wieser, Esq.  
2350 North Forest Road, Suite 24B  
Getzville, NY 14068

/s/ \_\_\_\_\_  
Donna M. Sheesley